

## **IEBM NEWS LETTER – FEBRUARY 2024**

### **Latest position of WPs filed by IEBM in Hon'ble Delhi High Court and Hon'ble Supreme Court**

1. **Revision of pension w.e.f. 01.01.2006 of retirees of the ranks of  
Constables, SIs and Inspectors who retired before 10.10.1997.**

**WP (Civil) No. 3761/2019- Indian Ex-Bordermen & ORs Vs Union of India & ORs was filed in Delhi High Court on 21.04.2019. The WP was admitted but due to Covid-19, the court Suo motto issued the general orders for all the cases giving dates without specifying the cases (no specific court order is available on website). Out of total the than 3200 members of IEBM, list of beneficiaries – Inspector-38, SIs-47 and Constables-363 was attached with WP as Annexure. This case has reached upto the stage of final hearing for arguments and next date of hearing is 20.12.2021. This case was listed and heard in 04.04.222. Further on next date of hearing on 13.10.2022, DHC has ordered that this petitioner is adjourned sine die by giving liberty to the parties to take appropriate steps in terms of the outcome of the SLP(C) Diary No. 20410/2018 pending before the Hon'ble Supreme Court.**

**2. Revision of pension w.e.f. 01.01.2006 of retirees of the ranks of Head Constables and ASIs who retired before 01.01.2006.**

**WP (Civil) No. 4942/2019- Indian Ex-Bordermen & ORs Vs Union of India & ORs was filed in Delhi High Court on 24.07.2019. The WP was admitted but due to Covid-19, the court Suo motto issued the general orders for all the cases giving dates without specifying the cases (no specific court order is available on website). Out of total the than 3200 members of IEBM, list of beneficiaries – ASIs-27, HCs-718 was attached with WP as Annexure. This case has reached upto the stage of final hearing for arguments and next date of hearing is 08.12.2021. This case was listed and heard on 23.03.2022. Further on next date of hearing on 17.10.2022, DHC has ordered that this petition is adjourned sine die by giving liberty to the parties to take appropriate steps in terms of the outcome of the SLP(C) pending before the Hon'ble Supreme Court.**

**3. Benefit of one notional increment for retired benefits who have retired on 30 June 2006, 2007, 2008, 2009 and so on.**

**WP (Civil) No. 4561/2019- Indian Ex-Bordermen & ORs Vs Union of India & ORs was filed in Delhi High Court on 30.04.2019.**

**The WP was admitted but due to Covid-19, the court Suo motto issued the general orders for all the cases giving dates without specifying the cases (no specific court order is available on website). Out of total the than 3200 members of IEBM, list of beneficiaries – of all ranks of 110 members was attached with WP as Annexure. This case has reached upto the stage of final hearing for arguments and next date of hearing is 17.12.2021. This case was listed and heard on 12.10.2022 and DHC ordered that this petition be adjoined sine die to await outcome of SLP pending before Supreme Court. Subsequently, on 11.07.2023, Supreme Court granted relief to grant one annual increment which the petitioners earned on the last day of their service. Accordingly, a CM was filed in DHC for listing of this petition. On 18.10.2023, DHC granted relief and ordered that arrears be computed and disbursed within a period of six weeks from the date of order i.e. 18.10.2023. HQ DG BSF has sent the case to MHA for approval of DOP&T, Department of Expenditure and Ministry of Finance. The sanction order of MHA is awaited in this case.**

#### **4. BSF Service Pay Case**

**Writ Petition (Civil) No. 13489/2019 –Rajendra Prasad Singh & Ors Vs Union of India & Ors was filed in Delhi High Court in December,2019 for grant of BSF Service Pay analogous to Army, Navy and Air Force as per recommendations of VIth CPC w.e.f. 01.09.2008 and on enhanced rate w.e.f. 01.01.2016 as per VIIth CPC, IEBM got filed this Writ Petition by Serving Officers/Personnel of BSF so that VIth and VIIth Central Pay Commission's recommendations can be covered up for grant of BSF Service Pay. This was done to strengthen the case of retired BSF Personnel. The Writ Petition came up for hearing on 20.12.2019. The Court did not hear the case due to paucity of time and adjourned the case for 24.02.2020 due to intricate, legal and Constitutional issues raised in the Writ Petition for grant of BSF Service Pay which, interalia, included parity of BSF with Army as Defence Force and role of BSF as an Armed Force and Defence Force. The Writ Petition again came up for hearing on 24.02.2020 where the Hon'ble High Court directed the Respondent to file reply to the representations of the petitioners before the Court and provide a copy of reply to them, and adjourned**

the case to the next date i.e. 18.05.2020. Further the Court due to Covid-19 Suo motto issued the general orders for all the cases giving dates. The notice by the advocate of the petitioner dated 27.10.2020 had been served to Respondent to decide and provide reply to the representations of the petitioners as directed by Hon'ble High Court vide order dated 24.02.2020. That the DIG(HQ)FHQ, BSF has sent reply to the advocate of the petitioner on 11.05.2021 endorsing reply dated 12.11.2019 given to the petitioner Rajendra Prasad Singh. After this reply CM APPL 35979/2021 for urgent hearing was filed on 05.10.2021 by the petitioners. On 10.11.2022 the Hon'ble Court directed in WP(C) 13489/2019 and CM APPL 35979/2021 to challenge the order dated 12.11.2019 -

*"1. Learned counsel appearing on behalf of the petitioners seeks permission to withdraw the present petition with liberty to file afresh by challenging the order dated 12.11.2019 as well.*

*2. Permission granted with liberty as prayed for.*

*3. Accordingly, the present writ petition along with pending application is dismissed as withdrawn."*

**WP(C) No. 7179/2023 titled Sandeep Kumar & Ors vs Union of India & Ors was filed as per order of the Hon'ble High Court dated 10.11.2022 after withdrawal of Writ Petition (Civil) No. 13489/2019 – Rajendra Prasad Singh & Ors Vs Union of India & Ors. Notice was issued in the WP(C) No. 7179/2023 on 24.05.2023, Respondents accepted the notice and 6 weeks' time was given to file Counter Affidavit and 4 weeks for Rejoinder was given to the Petitioners. The case was renotified on 29.08.2023 in Registrar Court, further 6 weeks' time was sought by the Respondents to file the counter reply. The next date of hearing is 25th January,2024.**

**WP(C) No. 11668/2023 titled Indian Ex Bordermen Movement & Ors vs Union of India & Ors was filed for retired BSF Personnel for the grant of BSF Service Pay .The notice was issued by the Hon'ble High Court in WP(C) No. 11668/2023 on 04.09.2023 and the next date of hearing is 25th January,2024 which was clubbed with WP(C) 7179/2023( Writ Petition filed by Serving BSF Personnel).The order dated 04.09.2023 of Hon'ble High Court states as under :-**

***" CM APPL. 45531/2023(exemption)***

***Exemption allowed subject to all just exceptions.***

**W.P.(C) 11668/2023**

- 1. Issue notice. Notice is accepted by learned counsel for the respondents, who prays for time to file counter affidavit.**
- 2. Let the same be filed within eight weeks. Rejoinder, if any, be filed within four weeks thereafter.**
- 3. List on 25th January,2024 along with W.P.(C) 7179/2023."**

**This matter is crucial for determining the parity of BSF with Army as Armed Force and Defence Force by the Court and all other cases of IEBM revolve around this Constitutional issue and interpretation which include Status of Ex- Servicemen, OROP and other benefits as an Armed Force of the Union (to be taken up after this Writ Petition).The intricate matters relating to BSF Service Pay has been raised in this Writ Petition which include Constitutional issues and interpretations which have never been raised before the court nor decided by the court. This matter is res-intergra (an entirely new and untouched matter). The Next date of hearing for both the cases is 25th January, 2024. Further, the next date of the hearing is on 08.05.2024.**

## **5. Grant of status and benefits of Ex Servicemen**

**A Writ Petition (Civil) No. 13518/2023 -Indian Ex Bordermen Movement & Ors vs Union of India & Ors was filed and notice was issued by the Hon'ble High Court on 12.10.2023, six weeks' time was given to file Counter Reply and 4 weeks for rejoinder thereafter. The case was filed for grant of status and benefit of Ex -Servicemen (ESM) to Ex- BSF Personnel .The amendment in the definition of Ex-Servicemen notified by DoPT has been sought by petitioners in this WP(C). All the Armed Forces were covered under the definition of Ex-Servicemen during 1966-1979 vide DoPT/Cabinet Sectt/MHA/Min of Defence OM/Notifications including BSF which is creation of CRPF Act ,1949 followed by BSF Act,1968.The benefit of Ex-Servicemen was granted to BSF de facto and de jure, being an Armed Force of Union. Thereafter, the benefit of Ex-Servicemen has been exclusively reserved for the Armed Forces who drew their pension from Defence Estimates. Further, the benefit of the Ex-Servicemen was confined to Air Force, Navy and Army only in place of Armed Forces of the Union. This deterioration in definition of Ex-Servicemen is gradual in process to deny the benefit of Ex-Servicemen to other Armed Forces**

including BSF. The denial of benefit of Ex-Servicemen to the BSF –an Armed Force of Union is therefore discriminatory, hence this WP(C) is filed for grant of status and benefits of Ex-Servicemen to Ex- BSF Personnel. The next date of the hearing is 22.04.2024.

6. Assured Career Progression Case

A Writ Petition (Civil) No. 7447/2019-Indian Ex Bordermen Movement & Ors Vs Union of India & Ors, challenging the validity of date of application of ACP Scheme w.e.f 09.08.1999 was filed in the Hon'ble High Court which sought application of ACP Scheme w.e.f. 01.01.1996 to the petitioners who retired during the period 01.01.1996 to 09.08.1999. The Hon'ble High Court has passed judgment on 03.02.2020 in favour of IEBM. The operative para of the judgment runs as under –

*“Para 20 The DoPT’s OM dated 9<sup>th</sup> August,1999 is clarified by holding that for the Petitioners who retired between 1<sup>st</sup> January,1996 and 9<sup>th</sup> August,1999, it will become effective from 1<sup>st</sup> January, 1996.Accordingly, the following directions are issued to the Respondents:*

- (i) *The members of the Petitioners No. 1 association who retired between 1<sup>st</sup> January 1996 and 9<sup>th</sup> August,1999, including Petitioner Nos. 2 to 15, will be granted the benefits under the ACP scheme by treating the said scheme as applicable from 1<sup>st</sup> January,1996.*
- (ii) *The said Petitioners as at (i) above will be placed in the appropriate pay scale of SI/HC etc. as the case may be (for e.g. In the case of SIs Rs.9300-34800 with grade pay of 4200) from the date of completion of 12 or 24 years of service, as the case may be.*
- (iii) *The appropriate revised pension orders will be issued and arrears will be paid to the said Petitioners as at (i) above within a period of 12 weeks, failing which the Respondents would be liable to simple interest of 6% per annum on the arrears of period of delay.*

*Para 21 The petition and pending applications are disposed of in the above terms.”*

**The Hon’ble High Court has granted ACP to the PBOR of BSF with arrears and interest @6% per annum after three months of the judgment. It is worth notice that arrears of 24 years pay and pension**

has been granted to the petitioners which is highest benefit ever granted.

Further the Contempt Petition, CONT. CAS(C) 628/2020-Indian Ex Bordermen Movement Vs Ajay Kumar Bhalla, Secretary MHA was filed for implementation of Hon'ble High Court and which was heard on 13.10.2020. It was heard through video conferencing and notice was issued .Next date of hearing was fixed on 05.04.2024.

In the meanwhile, Union of India filed SLP(C) 4918/2021 against the judgment of Hon'ble High Court and notice was issued therein. Counter Reply has been filed on behalf of IEBM. The next date for the hearing is 22.01.2024. As regards, contempt case mentioned above pending in Hon'ble Delhi High Court, long date of 05.04.2024 has been given because of SLP filed by Union of India pending in the Hon'ble Supreme Court. The next date of hearing in SC is 27.02.2024.

#### **7. Modified Assured Career Progression Case**

Writ Petition (Civil) No. 4310/2019 was heard on 26<sup>th</sup> April,2019 challenging the validity of date of application of MACP Scheme with effect from 01.09.2008 and prayed for quashing the date of application

of MACP Scheme and sought relief of grant of MACP w.e.f 01.01.2006 to those who retired during the period 01.01.2006 to 31.08.2008. The Counter Reply was filed by the Respondents and rejoinder was filed by the IEBM. It is worth mention here that nobody has so far challenged the Constitutional validity of date of operation of MACP Scheme. The next date of the hearing is 22.03.2024.

#### **8. Option 1 Case**

Writ Petition (Civil) No. 10157/2021 – Indian Ex Borderman Movement & ORs Vs Union of India & ORs was filed in Delhi High Court in July 2021 for grant of revision of pension giving due weightage for increments earned while serving in the last level from which one has retired. It was also prayed that directions be given to respondents to accept the 1<sup>st</sup> option as recommended by 7<sup>th</sup> CPC in sub para 1 of Para 10.1.67 of its report to maintain parity for determination of pension between those who retired after 01.01.2016 and those who retired earlier. This WP was admitted on 14.09.2021 and the next date of hearing is 17.03.2022. In this case, the beneficiaries are all retired BSF officers and personnel who retired before 01.01.2016. This case was listed and heard on 22.03.2023,

**28.07.2023 and 13.12.2023. The status of this case is that IEBM has to file counter affidavit and we were waiting for final order in OA No. 2086/2018 filed in CAT, Principal Bench, New Delhi by Central Govt. SAG(S-29) Pensioners Association. And final order has come on 06.02.2024 and the order is in favour of applicants. Now IEBM will file counter affidavit and further position of this case will be informed to members. The next date of the hearing is 22.05.2024.**

**9. Ration Money Allowance Case**

**Writ Petition (Civil) No. 8996/2021 – Indian Ex Bordermen Movement & ORs Vs Union of India & ORs was filed in Delhi High Court in July 2021 for grant of Ration Money Allowance w.e.f. 07.09.1998 upto the rank of Commandant irrespective of their place of posting or deployment. The WP was admitted on 25.08.2021 and the next date of hearing is 08.02.2022. In this case, the beneficiaries are all retired officers who will get arrears of RMA upto the rank of Commandant w.e.f. 07.09.1998 even when they were posted on staff duties and training institutions. This case was listed and heard on 29.11.2023, 14.12.2023 and now the next date of the hearing is on 05.03.2024.**

**10. Benefit of 3 notional increments case**

**Writ Petition (Civil) No. 9206/2021 – Indian Ex Bordermen Movement & ORs Vs Union of India & ORs was filed in Delhi High Court in July 2021, for grant of 3 notional increments only for pensionary benefits for those who have retired at the age of 57 years. The Hon'ble Court gave order that the benefit will be applicable to those in the CAPFs, who had not crossed the age of 60 years as on 31<sup>st</sup>January, 2019. Consequently the present WP was dismissed on 31.08.2021. IEBM has now decided to file SLP in Hon'ble Supreme Court and for this a senior advocate was engaged to appear for IEBM. SLP was filed in 2021 on 28.11.2021 and the same was listed in SC on computer generated dates as follows:- 21.02.2022, 06.04.2022, 19.05.2022, 04.05.2023, 07.07.2023, 24.07.2023, 05.12.2023, 30.01.2024 and now next date of hearing is on 16.04.2024.**